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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
Case Nos. 08-13555 (JMP) ; 08-01420 (JMP) (SIPA)
- - - - -x
In the Matters of:

LEHMAN BROTHERS HOLDINGS INC., et al.

Debtors.
- - - - -x
LEHMAN BROTHERS INC.,

Debtor.
- - - - -x
United States Bankruptcy Court
One Bowling Green
New York, New York

December 15, 2010
10:02 AM

B E F O R E:
HON. JAMES M. PECK
U.S. BANKRUPTCY JUDGE

1
2 HEARING re Motion for Approval of the Termination and
3 Settlement of Certain Prepetition Derivatives Contracts with
4 Trusts for which U.S. Bank National Association Serves as
5 Indenture Trustee and Related Relief

6
7 HEARING re Debtors' Motion for Authorization to Assume and
8 Assign Interest Rate Swap Agreements with Certain Trust
9 Counterparties, Including Deutsche Bank National Trust Company,
10 as Indenture Trustee, and to Enter into New Interest Rate Swap
11 Agreements

12
13 HEARING re Motion of the Debtors for Authorization and Approval
14 of the Settlement Between Lehman Brothers Financial Products
15 Inc., Madison Avenue Structured Finance CDO I, Ltd., Madison
16 Avenue Structured Finance CDO I, Corp., MetLife Investment
17 Advisors Company LLC, and U.S. Bank National Association

18
19 HEARING re Debtors' Motion for Approval of Settlement Agreement
20 between LB Somerset LLC, LB Preferred Somerset LLC, KBIA
21 Somerset Investments, LLC, KBIA Preferred, LLC, Falls Of Neuse
22 Investments, LLC, Somerset Properties SPE, LLC, Somerset
23 Associates, LLC and Kevin Wilk

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HEARING re Motion of Lehman Brothers Holdings Inc. and Lehman
Commercial Paper, Inc. for Authority to Enter into Settlement
Agreement with Respect to Heritage Fields Property and to
Consummate Transactions in Connection Therewith

HEARING re Debtors' Motion for Approval of a Settlement Among
Lehman Brothers Special Financing Inc., BNY Corporate Trustee
Services Limited, Perpetual Trustee Company Limited, and
Others, with Saphir Finance Public Limited Company

HEARING re Motion of Prudence M. Waltz for Relief from the
Automatic Stay

Transcribed by: Lisa Bar-Leib

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P R O C E E D I N G S

THE COURT: Please be seated. Good morning.

MS. FIFE: Good morning, Your Honor.

THE COURT: Good morning.

MS. FIFE: Lori Fife from Weil Gotshal & Manges on behalf of Lehman Brothers Holdings Inc. and its affiliated debtors. We have on the calendar this morning a number of uncontested matters and I'm pleased to report even the contested matter is now uncontested. So hopefully, we'll have a short hearing today.

The first matter is a motion for approval of termination settlement of certain pre-petition derivative contracts with U.S. Bank. And my colleague, Mark Bernstein, will be handling that.

MR. BERNSTEIN: Good morning, Your Honor. Mark Bernstein from Weil Gotshal & Manges on behalf of the Lehman Chapter 11 debtors. The first item on the agenda today is a motion of the debtors pursuant to Bankruptcy Rule 9019 seeking to terminate and settle certain pre-petition interest rate cap and corridor agreements entered into by LBSF and LBFP with certain securitization trusts for which U.S. Bank serves as the indenture trustee. Prior to the commencement date, the debtors entered into the interest rate cap and corridor agreements to provide protection to these trusts against movements in certain interest rates. In connection with these agreements, the trust

1 paid to LBSF and LBFP upon entering into the contract an
2 upfront payment in exchange for an agreement by the debtors to
3 make payments to the trust if interest rates moved above or
4 within certain ranges throughout the length of the contract.
5 As a result, by the nature of the contracts, there is no
6 possibility of these contracts moving in the money to the
7 debtors but rather this is just a matter of crystallizing and
8 determining what the claim is against the debtors based on
9 these contracts. U.S. Bank did file claims in unliquidated
10 amounts based on these contracts.

11 The order seeks to settle these amounts in the amount
12 set forth in the motion. Daniel Ehrmann, a managing director
13 of Alvarez & Marsal, has submitted a declaration stating that,
14 in his business judgment, this is a deal that is in the best
15 interest of the debtors. A declaration was also submitted by a
16 third party valuation agent who reviewed these settlement
17 amounts and also determined this to be a fair and reasonable
18 settlement. The committee's advisors have also reviewed this
19 deal and are in favor of the settlement amounts.

20 The debtors are authorized to settle derivative
21 contracts under prior procedures approved by this Court.
22 However, U.S. Bank had requested that the debtors file this
23 motion seeking these approvals in order to provide notice and
24 an opportunity to object to any noteholders in the trust for
25 which these matters are being settled.

1 The motion was filed more than thirty days prior to
2 this hearing. No objections have been received. This matter
3 is uncontested. I'm happy to answer any questions Your Honor
4 has. Otherwise, we request that this motion be granted.

5 THE COURT: I don't have any questions. I've reviewed
6 the declarations and I approve the settlement.

7 MR. BERNSTEIN: Thank you. Your Honor, the next
8 motion on the agenda also relates to certain derivative
9 contracts that LBFP and LBSF are party to. These contracts are
10 securitization trusts for which Deutsche Bank National Trust
11 Company or Deutsche Bank Trust Company Americas serves as the
12 indenture trustee. Unlike the contracts in the prior motion,
13 these contracts are executory contracts where both parties have
14 ongoing obligations. And these contracts are in the money to
15 the debtors and have been in the money since the commencement
16 date. The debtors are owed as of today more than a hundred
17 million dollars on these contracts in the aggregate.
18 Notwithstanding such fact, the trusts have not made these
19 payments for a variety of reasons to the debtors since the
20 commencement date. In an effort to resolve the disputes and
21 collect the money owed to them, the debtors propose to assume
22 and assign these particular derivative contracts and enter into
23 a transaction which will cure the defaults that currently exist
24 in the contracts and effectively replicate the economics that
25 the debtors currently enjoy under the contracts.

1 Specifically, the debtors will assume and assign the
2 contracts to an entity called 1271 SwapCo Ltd. which was an
3 entity formed for this specific purpose of entering into these
4 type transactions. 1271 SwapCo's obligations to the trust
5 under the contracts will be guarantied by Deutsche Bank AG
6 which provides the trust a creditworthy counterparty.

7 Deutsche Bank will receive a market rate fee for
8 entering into these transactions and serving in this role.
9 LBSF and LBFP will then enter into new swap agreements which
10 have the net result of providing the same economics that they
11 currently have. Their funds will be passed back through to
12 LBSF and LBFP and they'll remain on the hook for the -- depict
13 the floating rate payments under these swap agreements.

14 As a result of this transaction, the indenture trustee
15 has agreed that they will pay over to the debtors the due and
16 unpaid amounts which will result in the debtors collecting
17 approximately 107 million dollars from this transaction.

18 There are additional benefits to the debtors which
19 include the cure of defaults under the agreements which
20 mitigate certain risks that exist from the continued existing
21 defaults. These maximize the value of the swap agreement for
22 the debtors and permit the debtors to fully hedge their
23 exposure under the interest rate swap agreements.

24 Prior to the assumption, the debtors will cure any
25 amounts that they have -- that they owe under these contracts.

1 There are certain payments that the debtors missed as well and
2 certain fees and expenses that the debtors will cure and will
3 be deducted from the amounts that will be paid to the debtors.
4 In addition, based on Deutsche Bank's credit ratings, which are
5 significantly higher than that of the debtors, the debtors have
6 provided adequate assurance of future performance under these
7 contracts. And therefore, the debtors have satisfied the
8 requirements of Section 365 of the Bankruptcy Code.

9 Daniel Ehrmann submitted a declaration in support of
10 this motion as well indicating that, in his business judgment,
11 this is in the best interest of the debtors. The debtors have
12 also worked closely on this transaction with the creditors'
13 committee and their advisors have reviewed and approved this
14 transaction as well.

15 In order to provide notice of this transaction to the
16 holders, this motion was filed more than thirty-five days
17 before -- thirty-four days before this hearing and Deutsche
18 Bank Trust Company provided notice of this motion to the
19 holders through the ordinary channels in which they communicate
20 with holders.

21 No objections have been filed to this motion and it is
22 uncontested.

23 On Monday, the debtors filed a revised form of order
24 in connection with this motion. I have a copy of the blackline
25 if Your Honor doesn't have a copy if you'd like me to hand it

1 up. Or --

2 THE COURT: No. I've looked at it online.

3 MR. BERNSTEIN: Okay. So just to run through the
4 material changes quickly, certain language was added to reflect
5 the mechanics and documentation that will be entered into to
6 effect this transaction. An additional order paragraph was
7 included that provides the indenture trustee some additional
8 and added comfort and certain corrections were made to the
9 claims that are being resolved in connection with this
10 transaction. It was just a typo in the motion.

11 At this time, I'm happy to answer any questions Your
12 Honor may have. Otherwise, we request the order be entered.

13 THE COURT: I don't have any questions and this motion
14 is approved.

15 MR. BERNSTEIN: Great. Thank you, Your Honor. The
16 next motion will be handled by my colleague, Peter Gruenberger.

17 THE COURT: Thank you very much.

18 MR. GRUENBERGER: Good morning, Your Honor. Peter
19 Gruenberger, Weil Gotshal & Manges, on behalf of the debtors.

20 THE COURT: Good morning.

21 MR. GRUENBERGER: We are here today on our motion for
22 authorization and approval of a settlement between LBFP, on the
23 one hand, Madison Avenue Structured Finance CDO I Ltd. and
24 related entities as issuer, U.S. Bank, National Association, as
25 trustee, and MetLife Investment Advisors as collateral manager.

1 This settlement was reached after the ADR process and
2 a mediation and deals with notes issued under an SPV. This is
3 the first SPV settlement that has arisen out of mediation, Your
4 Honor.

5 The motion was filed more than thirty days ago. No
6 objections have been filed. And we ask, as debtors, that Your
7 Honor enter the order.

8 Mr. Frank Top of Chapman & Cutler is in the courtroom
9 and will be happy to answer any questions you may have of the
10 trustee because of the procedures involved here. But I'll
11 answer any questions Your Honor may have of me as well, of
12 course.

13 THE COURT: I don't have any questions. I requested
14 an unredacted copy of the settlement agreement which I've
15 reviewed and I'm satisfied with it.

16 MR. GRUENBERGER: We will bring down or send down to
17 chambers a final revised order for Your Honor to sign today.

18 THE COURT: Fine. This motion is approved.

19 MR. GRUENBERGER: Thank you.

20 (Pause)

21 MR. WIN: Good morning, Your Honor. Zaw Win, Weil
22 Gotshal & Manges, for LBHI and its affiliated debtors. I
23 understand that the people in the back of the courtroom are
24 having a difficult time hearing so I'll try to speak up as much
25 as possible.

1 The next motion on the agenda is the motion of LB --
2 Somerset LLC and LB Preferred Somerset LLC to enter -- for
3 authorization to enter into a settlement agreement with certain
4 of their joint venture partners and the joint venture partners'
5 affiliates.

6 The objection deadline to this motion was scheduled
7 for November 15th, 2010 and no objections have been filed or
8 served on the debtors. The creditors' committee has also filed
9 a notice in support of this motion. And the debtors have filed
10 the declaration of Jeffrey Fitts, managing director of Alvarez
11 & Marsal. And Mr. Fitts is in the courtroom today in case any
12 parties have any questions.

13 As set forth in the motion and Mr. Fitts' declaration,
14 the Lehman Somerset debtors' sole asset is their interest in a
15 joint venture called Somerset Associates LLC. Somerset
16 Associates LLC's sole asset is its interest in another entity
17 called Somerset Properties SPE LLC which owns six office
18 buildings in North Carolina.

19 To put it mildly, the debtors' investment in these
20 properties has not worked out as anticipated. Almost since the
21 beginning of the joint venture, there have been difficulties
22 between the debtors and the joint venture partner with respect
23 to certain funding obligations and management responsibilities.
24 And those disagreements resulted in litigation in Delaware.

25 In addition, the properties are encumbered by a loan

1 or by several loans, actually, and it is the debtors' opinion
2 that the value of the loans is either equal to or in excess of
3 the value of the properties. So we see very little equity here
4 for the debtors to recover.

5 Further, following the submission of the motion, we
6 understand that the joint venture partner Somerset Properties
7 SPE for bankruptcy in North Carolina which would make it even
8 more difficult for the debtors ever to realize any value on
9 this asset.

10 Given those considerations, the debtors feel that the
11 settlement agreement's in their best interest. While it only
12 provides a limited recovery for their creditors, it does result
13 in the withdrawal of all claims by the Somerset entities
14 against the debtors, the dismissal of the Delaware litigation
15 and the leases for the debtors going forward.

16 Are there any questions?

17 THE COURT: My one question relates to the bankruptcy
18 in North Carolina for Somerset SPE and whether authority is to
19 be obtained from the bankruptcy court or has already been
20 obtained or may not be needed.

21 MR. WIN: We looked into this issue and our opinion is
22 that it's not needed. The obligations of the entity that filed
23 for bankruptcy under the settlement agreement were minimal.
24 And we believe that were all effective prior to the bankruptcy.
25 So we don't think that it's necessary to go to that bankruptcy

1 court and seek approval for this agreement.

2 THE COURT: There's a gentleman standing behind you.
3 I don't know if he's going to say something that either is
4 consistent with or different from what you've just said. But
5 let me find out.

6 MR. RABINOWITZ: Your Honor, if I might be heard
7 briefly?

8 THE COURT: Sure.

9 MR. RABINOWITZ: Good morning, Your Honor. John
10 Rabinowitz, Rabinowitz, Lubetkin & Tully. I represent the
11 Somerset counterparties to the settlement agreement. And that
12 was the very issue that I intended to raise with the Court this
13 morning.

14 We have disclosed, and it is set forth in the
15 supplemental pleadings that have been filed with the Court,
16 that Somerset SPE filed voluntary Chapter 11 in the North
17 Carolina bankruptcy court several weeks ago. It is our
18 position that we intended to apply to approve -- once this
19 Court approves, intended to apply for approval in that
20 bankruptcy as well. And we believe we've made a representation
21 in the settlement agreement with respect to authority. And we
22 believe in order to fulfill that representation that we need to
23 bring it before the bankruptcy court in North Carolina for its
24 approval. We expect that that will happen. This case has just
25 been filed. There's a lot going on unrelated to this in terms

1 of cash collateral and things of that nature.

2 We would ask the Court, for the reasons that counsel
3 has indicated, to approve the settlement. We will move
4 promptly to obtain approval. We expect to get it. If we do
5 not, I'm not asking the Court to make a ruling as to whether it
6 was necessary or not or what effect it has on the performance
7 obligations. But I simply wanted to disclose to this Court
8 this morning that we intend to go ahead and do that.

9 THE COURT: Let me just ask you this question. Is it
10 your position as counsel for the Somerset counterparties that
11 bankruptcy court approval is a condition precedent to the
12 effectiveness of the settlement?

13 MR. RABINOWITZ: I believe that is the case, Your
14 Honor. But I'm not asking Your Honor to rule that because I
15 don't believe that the --

16 THE COURT: I'm not planning to rule on it. I'm --

17 MR. RABINOWITZ: -- that the LB parties --

18 THE COURT: I'm just asking for your position.

19 MR. RABINOWITZ: That is my position, that in order
20 for it to be effective it would require bankruptcy court
21 approval. But I don't know what the position of the LB parties
22 are with regard to that. If I heard counsel this morning, he
23 believes that the approval itself is not necessary. That's the
24 first time that I've learned of that fact. And I think, Your
25 Honor, for the reasons set forth in the pleadings and this

1 morning, can approve the settlement. If we don't shortly
2 obtain the approval, we can come back and address the issue as
3 to whether the settlement is to go effective or not. My client
4 may waive the condition and go forward and consummate in any
5 event. We have posted the funds. They are in an escrow
6 account. That is the bulk of the performance. The only other
7 thing is the execution of some remaining conveyance documents
8 as well as a review by the LB entities from a governance
9 standpoint with regard to the effectiveness of the governance
10 and encompassing materials that we've sent them.

11 THE COURT: Okay. Fine. I understand. I'm
12 considering all of that colloquy as just that: colloquy, and
13 understand the position of the parties. I approve the
14 settlement with the understanding that some effort will be made
15 in North Carolina to obtain approval of the same transaction
16 from the Somerset perspective. But meanwhile, I endorse the
17 settlement from Lehman's perspective.

18 MR. WIN: Thank you, Your Honor. I understand that my
19 colleague, Damon Meyer, is handling the next one.

20 MR. MEYER: Good morning, Your Honor. For the record,
21 Damon Meyer from Weil Gotshal & Manges on behalf of LBHI and
22 its affiliated debtors. Your Honor, on November 23rd, LBHI and
23 LCPI filed a motion to enter into a settlement agreement
24 regarding the Heritage Fields property. On December 1st, LBHI
25 and LCPI filed a draft of the settlement agreement. On

1 December 7th, a revised form of order and a draft of the waiver
2 and release with respect to the settlement agreement were
3 filed. And finally, Your Honor, on December 13th, debtors
4 filed the declaration of Jeffrey Fitts in support of the
5 motion. Mr. Fitts is in the courtroom today.

6 Your Honor, the motion seeks authorization for LBHI
7 and LCPI to enter into a settlement agreement regarding the
8 Heritage Fields project. It's a master plan development in
9 Irvine, California. As set forth in the motion, there are
10 disputes regarding the project some of which are the subject of
11 the pending adversary proceeding between the debtors and State
12 Street.

13 Further, Your Honor, the motion requests that certain
14 of the transfers made in the settlement agreement of LBHI's
15 interest in the project be free and clear of all liens and
16 interests pursuant to Section 365 of the Bankruptcy Code with
17 any interest attaching to proceeds of that transfer.

18 Your Honor, not only does the settlement regard -- I'm
19 sorry -- not only does the settlement agreement resolve the
20 disputes between State Street and the debtors as well as the
21 other parties to the settlement agreement, but also provides
22 the LBHI with a discounted payoff on account of its interest in
23 the project. That payoff amounts to a significant recovery for
24 LBHI on account of its interest.

25 Further, it provides for the payment in full plus

1 interest of all amounts outstanding under a thirty-two million
2 dollar participation that LBHI has in the project.

3 Finally, it provides LBHI with a cash flow
4 participation in the project which will be LBHI's only
5 remaining interest in the project. The debtors believe in
6 their business judgment that entering into the settlement
7 agreement is in the best interest of the estates and all
8 parties.

9 Your Honor, there have been no objections filed to the
10 motion and the committee supports the relief requested. There
11 are a couple of points I'd like to make on the record and, of
12 course, answer any questions Your Honor may have.

13 First, Your Honor, the debtors filed a revised form of
14 order seeking a waiver of the stay provided in Rule 6004(h).
15 This is the only change to the form of order that was filed
16 with the motion. The waiver of the stay is necessary, Your
17 Honor, because State Street needs to enter into a development
18 agreement with the city of Irvine. They need the settlement
19 agreement to close prior to entering into that development
20 agreement and that must be done by December 27th.

21 Second, Your Honor, footnote 4 of the motion reads,
22 and I quote, "LBHI and LCPI assert that as a result of certain
23 intercompany repo transactions on or around April 24th, 2008,
24 LCPI became the holder of a portion of the original
25 participation which was later transferred to State Street as

1 set forth below." I'd like to clarify on the record that
2 nothing contained in footnote 4 is intended to be an admission
3 or a waiver or relinquishment of any rights, claims or the like
4 as between LBHI and LCPI.

5 Unless Your Honor has any questions, the debtors would
6 request entry of the order approving the motion.

7 THE COURT: I don't have any questions and the motion
8 is granted.

9 MR. MEYER: Thank you very much, Your Honor.

10 MR. MILLER: Good morning, Your Honor. Ralph Miller
11 from Weil Gotshal & Manges here on behalf of LBHI and its
12 affiliated debtors including, specifically, Lehman Brothers
13 Special Financing Inc., known as LBSF, on docket number 13051.
14 Although this is listed as a contested matter, Your Honor, I'm
15 pleased to report that the sole remaining objection, which was
16 a limited objection by the Belmont noteholders, has been
17 withdrawn. So it's now an uncontested matter.

18 This is debtors' motion under Rule 9019 for approval
19 of a settlement among Lehman Brothers Special Financing, BNY
20 Corporate Trustee Services Limited, Perpetual Trustee Company
21 Limited and others with Saphir Finance Public Limited Company.
22 The Court will recognize, I believe, that this settlement
23 resolves the adversary proceeding between LBSF and BNY
24 Corporate Trustee Services. It was the subject of a January
25 25th summary judgment that this Court entered.

1 It is my understanding that the official committee of
2 unsecured creditors does support the settlement. They may wish
3 to address that specifically in a moment, Your Honor.

4 There were some objections that were filed. They have
5 now been resolved as, I think, is reflected by filings by the
6 Court. There is a declaration of Robert Hershan in support.
7 Mr. Hershan is present if it were necessary to have him address
8 any questions, Your Honor. We believe that the record
9 establishes clearly all of the requirements of Rule 9019 that
10 the settlement is in the best interest of the estate. We're
11 available, of course, to answer any questions Your Honor may
12 have.

13 THE COURT: I'm very familiar with this matter. I've
14 reviewed the settlement agreement which was provided to me for
15 in camera review. And I'm satisfied that this is a settlement
16 that should be approved. But before I do that, I'd like to
17 give anybody, including the committee, who wishes to be heard
18 an opportunity to speak now. Otherwise, I'll simply approve
19 it.

20 MR. MILLER: Thank you, Your Honor.

21 MR. FLECK: Your Honor, good morning. Evan Fleck of
22 Milbank Tweed on behalf of the official committee. Just to
23 reiterate, what Mr. Miller stated is accurate. The committee
24 has worked diligently with the debtors in connection with this
25 matter throughout all the stages both here and in foreign court

1 in connection with this matter. And the committee is in
2 support of the settlement, believes it is in the best interest
3 of the estate and falls above the lowest point in the range of
4 reasonableness and, for those reasons, request that the Court
5 grant the debtors' motion.

6 THE COURT: I'm pleased to grant the motion and
7 consider it a positive resolution of litigation which, if not
8 settled, could have been quite time consuming, expensive and
9 risky to all parties. So it's approved.

10 MR. FLECK: Thank you, Your Honor.

11 MR. WIN: Good morning, Your Honor. Zaw Win again,
12 Weil Gotshal & Manges, on behalf of LBHI and its affiliated
13 debtors. The final matter on the agenda today is the motion of
14 Prudence Waltz for relief from stay. Notwithstanding the fact
15 that the debtors have offered to grant limited relief from
16 stay, I believe that Prudence Waltz' counsel would like to move
17 forward with this matter. I'm not familiar with Ms. Waltz'
18 counsel so I'm not sure if he's in the courtroom or not.

19 THE COURT: Is counsel for the movant, Prudence Waltz,
20 present? Is counsel for Prudence Waltz on the telephone? Is
21 anyone here representing the interest of Prudence Waltz? I
22 hear no response.

23 MR. WIN: That puts the debtors in somewhat of an odd
24 situation. On the one hand, we certainly seek to have the
25 motion of Prudence Waltz denied. On the other hand, it may

1 make sense from the estate perspective to grant limited relief
2 from the stay in order to allow the state court proceeding to
3 move forward.

4 THE COURT: Is it the debtors' preference -- and I've
5 read your papers -- that even in the absence of a moving
6 plaintiff seeking relief from stay that you would nonetheless
7 voluntarily consent to permit the litigation in California to
8 proceed because you believe it to be in the debtors' best
9 interest that that litigation move forward inasmuch as the
10 title insurance company is covering the expenses of that
11 litigation?

12 MR. WIN: That's correct, Your Honor. The debtors
13 believe that this property has very little value. And so
14 they'd like to minimize the cost and expense that they incur
15 defending this action both here and in the state court in
16 California. Currently, the action in the state court in
17 California is being funded by our title insurance company. So
18 to the extent that we can have these issues decided in that
19 proceeding, it's likely to be less expensive for the debtors.
20 And so that's correct.

21 THE COURT: This is a procedurally unusual
22 circumstance. Are you here on behalf of the movant?

23 MR. ZAMOS: Yes, Your Honor.

24 THE COURT: Is there some reason you didn't respond
25 when I called out earlier?

1 MR. ZAMOS: Because I didn't hear you. I was sitting
2 in the back. I apologize.

3 THE COURT: All right. Let's start over.

4 MR. ZAMOS: Your Honor, the basic issue here is
5 obviously where this matter should be resolved. Our position
6 is it should be resolved in whatever court it finds itself as
7 quickly as possible. The initial issue is who -- does the
8 debtor or one of its affiliates have an interest in the
9 property. If the debtor has no interest in the property then
10 this Court has the jurisdiction to make that determination.
11 And there's no reason it shouldn't make that determination. We
12 initially started out in the state courts because initially
13 there is no evidence that the debtor had any interest in the
14 property. We didn't choose to come into this particular
15 jurisdiction. But having been drawn into this jurisdiction, we
16 believe that the appropriate first step is for a determination
17 to be made as to whether or not there is an interest in the
18 property. And the answer is there is no evidence the debtor
19 has any interest in this property.

20 THE COURT: I disagree. I've read the papers that
21 have been filed by the debtors in opposition to your motion for
22 relief from the automatic stay. And there appears to be
23 abundant proof -- I make no findings as to whether or not
24 another court would conclude that there's an interest. But
25 there's clearly prima facie evidence of an ownership interest

1 in the debtors' estates. The debtors have also made what I
2 consider to be a very fair proposal -- I don't know why we're
3 having an argument here at all -- to permit the California
4 courts to resolve matters that are properly to be resolved in
5 the California courts. I'm prepared to grant limited relief
6 from the stay for the express purpose of permitting the
7 California state court to adjudicate the controversy. And I
8 see no reason why you're opposing that.

9 MR. ZAMOS: The only reason I'm opposing it, Your
10 Honor, is one of timing. This matter has been delayed. It has
11 been delayed -- every time we have been on the verge of having
12 the matter resolved, it has been delayed for one reason or
13 another. I'm prepared to follow the direction of the Court.
14 If that's the direct -- and I believe the Court does have that
15 discretion. I also believe that the Court has discretion to
16 make the determination that the debtor does not have an
17 interest in the property.

18 THE COURT: I'm not making that determination today.
19 What I am determining is that the state court, consistent with
20 the debtors' consent, is the appropriate venue and forum for
21 resolving issues relating to the ownership of property located
22 in Los Angeles. And so, you'll go back to California and
23 litigate it in the state court where I'm sure you're familiar.

24 MR. ZAMOS: As I said, my objection is one of timing.
25 If that's the direction we must follow, we will follow it.

1 We're prepared to do that.

2 THE COURT: Fine. That's what we're going to do. And
3 I'll grant stay relief consistent with the responsive papers
4 that were filed by the debtor which will consent to the
5 continuation of litigation which has already been filed and is
6 being prosecuted as a result of this relief from stay in the
7 California courts and suggest that that's the proper place for
8 this to be decided.

9 MR. ZAMOS: Thank you, Your Honor.

10 THE COURT: And I'll entertain an appropriate order
11 from the debtors.

12 MS. FIFE: Your Honor, I believe this concludes the
13 hearing. As I suspected, it would be short. Thank you very
14 much. And have a happy holiday and a happy new year.

15 THE COURT: Happy holiday to everybody in the
16 courtroom and also on the telephone. We're adjourned.

17 (Whereupon these proceedings were concluded at 10:32 a.m.)
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I N D E X

R U L I N G S

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Debtors' motion for authorization and approval of a settlement between LBFP; Madison Avenue Structured Finance CDO I Ltd. and related entities as issuer; U.S. Bank, National Association, as trustee; and MetLife Investment Advisors as collateral manager granted	15	18
Motion of LB Somerset LLC and LB Preferred Somerset LLC for authorization to enter into settlement agreement with certain of their joint venture partners and the joint venture partners' affiliates granted	20	13

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I N D E X, cont'd

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Motion of Prudence Waltz for relief from stay granted as to limited relief to allow litigation to continue in the California state court	29	3

C E R T I F I C A T I O N

I, Lisa Bar-Leib, certify that the foregoing transcript is a
true and accurate record of the proceedings.

Lisa Bar-Leib

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Date: December 16, 2010